IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 559 OF 2004
IN
SUMMARY SUIT NO. 3382 OF 2003

A N D

SUMMARY SUIT NO. 3382 of 2003

The Sangli Bank Limited .. Plaintiff

versus

Tanaji Ganpat Kamble & ors. .. Defendants

...

Mr.Kalpesh Parekh i/b Pragna Thakkar for the plaintiff.

CORAM : D.G. KARNIK,J.

DATED : 5th April 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None present for the defendant.

2. The learned counsel for the plaintiff hands in affidavit of service of writ of summons of the suit on the defendants. Affidavit is taken on record and marked Exhibit-B.

3. Despite service, the defendant nos.2 and 3

have not filed an appearance. The learned counselfor the plaintff hands in affidavit of service of Summons for Judgement on defendant no.1 who had filed an appearance. Affidavit is taken on record and marked Exhibit-B. Despite service of Summons for Judgement, the defendant no.1 has not applied for leave to defend nor filed any affidavit in reply.

4. The learned counsel for the plaintiff hands in original documents in a compilation. The documents are taken on record and collectively marked Exhibit-C. Despite service of Summons for Judgement, the defendant nos.2 and 3 have not filed an appearance. The plaintiff is entitled to a decree against defendant no.2 and 3 under Order 37 Rule 2(3) of the Code of Civil Procedure. In the absence of any application for leave to defend or any affidavit in reply, the averments made in the plaint are deemed to be admitted by the defendant no.1 and plaintiff is entitled to a decree under Order 37 Rule 3(6) of the Code of Civil Procedure.

5. In the circumstances, Summons for Judgement is made absolute against defendant no.1 and the suit of the plaintiff is decreed against all the defendants in terms of prayer clause (20) of the plaint with costs.

D.G. KARNIK, J